

SUBMISSION
to the
ROYAL COMMISSION ON THE WORKMEN'S COMPENSATION ACT
by
THE ONTARIO MUNICIPAL ASSOCIATION

The Ontario Municipal Association wishes to place before The Honourable Mr. Justice George A. McGillivray, Commissioner of the Royal Commission on the Workmen's Compensation Act, the following Submission on The Workmen's Compensation Act.

INTRODUCTION

The Ontario Municipal Association was established in 1899 for the purpose of providing a common meeting ground for municipalities of all types and populations throughout the Province of Ontario. As the voice of local government, it embraces within its membership both elected and appointed municipal officials, as well as representatives from six constituent bodies, six regional municipal associations and three provincial organizations. It is believed that it is this composite membership which enables the Association to produce the balanced approach required to solve the many complex problems placed before local government in Ontario.

Each year the Association meets in annual convention to consider, discuss and approve those matters to be presented during its yearly meeting with the Government. At its 68th Annual Convention, held in the City of Hamilton, August 21st to 24th, last, the delegates had before them three resolutions from the Town of Timmins, concerning matters relating to The Workmen's Compensation Act. As a result of the subject of the resolutions, and because these and previous resolutions, with one exception, originated in a particular area of our Province, the following recommendation was put forth and unanimously adopted:

"Recommended that the resolutions from the Town of Timmins be approved for inclusion in a submission to the Royal Commission on The Workmen's Compensation Act;

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And further, it is recommended that the Executive Committee prepare a submission based on this and previous resolutions adopted by the Association for presentation to the Commission, and that a request be submitted to the Commission to hear the submission in the Town of Timmins."

In seeking the proposed hearing in the Town of Timmins, the Association, in the first instance, is most anxious that certain of its members more familiar with the matters contained in the resolutions should be given the opportunity of personally waiting upon the Commission. Secondly, it is hoped that in so granting, the Commission will obtain a clearer and more complete understanding of the problems arising out of the resolutions and the solutions proposed.

RESOLUTIONS

1. To Provide Workmen's Compensation Pensions to Dependents of Deceased Silicotics

From the Township of Teck

Whereas the Municipal Welfare Department exists solely for the purpose of preventing hunger, starvation and physical suffering;

And whereas the Department has no resource outside the Municipality;

And whereas all men going to work underground in the mines of Ontario must pass rigid X-Ray and physical examinations;

And whereas all men must be proved constitutionally sound, it must be conceded that the development of disabilities at unduly early years of life is a direct responsibility of his employment and its rigorous requirements are burdens on both the MAN and his WIFE and FAMILY.

Now therefore be it resolved that the Workmen's Compensation Act of Ontario or "Regulations" under the Act be amended to provide payment of pension to widow and dependent family of man who has been recognized as silicotic and was receiving compensation because of silicosis immediately prior to the time of death to the extent of the rate of compensation he was then receiving and, in addition, such further pension award as may be warranted having full regard to the immediate effect of the silicotic condition as a cause or a contributing cause of death.

2. To Compensate for Silicosis where Tuberculosis also Develops; Compensation Where Employee Disqualified After Ten Years of Service

From the Township of Teck

Whereas the Workmen's Compensation has organized a system of X-Ray and physical examination of men before their employment underground in mines of Ontario;

And whereas the development of Medical Practice can and now does determine the "existence of" or "non-existence of" tuberculosis and other constitutional disabilities;

And whereas Workmen's Compensation is based on the principle of "Insurance", which is so widely approved by business and industry in Ontario;

And whereas the Workmen's Compensation Board may and in fact does advise withdrawal of men from underground and other "dust exposure", and the Workmen's Compensation Board does practice such action under the Workmen's Compensation Act of Ontario;

Now therefore be it resolved that the Workmen's Compensation Act or its "Regulations", as the case may be, be amended to ensure

- (a) Recognition of "silicosis" accident where tuberculosis and other constitutional disability may have developed before or after employee has been brought from exposure on advice or orders of Workmen's Compensation Board Examiners or Department of Health Institutions or Institutions recognized by the Ontario Department of Health;
- (b) Payment of compensation under the Act for industrial accidents where the Workmen's Compensation Board disqualifies employee after ten years service or employment.

3. Request for Board to Study the Full Effects of the Inhalation of Silica Dust on the Human Body

From the Town of Timmins

Whereas it is an established fact that exposure to and the subsequent inhalation of silica dust damages the lungs and thus impairs the respiratory system; and

Whereas the end result of the inhalation of the silica dust over a long period of time is the disease or ailment commonly known as silicosis; and

Whereas it has long been established that exposure to silica dust can and has resulted in death to some employees while it has forced others into early retirement; and

Whereas silicosis is accepted as an industrial disease and is compensable as such under the Workmen's Compensation Act; and

Whereas it has been stated by many professional men including doctors that exposure to silica dust can and does result in other physical ailments and diseases; and

Whereas the extent of these physical ailments and diseases should be accurately determined in order that they will also be compensable as an industrial disease under the Workmen's Compensation Act;

Therefore be it resolved that the Ontario Government be petitioned to set up an impartial Board of Doctors; specialists in the field of respiratory diseases to study the full effects that the inhalation of silica dust has on the human body and that the results of the study be made public and form the basis for any necessary changes in the Workmen's Compensation Act.

4. Provide Results of Post Mortem on Lung and Heart to Families of Deceased Claimants and/or Estate Representatives

From the Town of Timmins

Whereas at present when the Workmen's Compensation Board requests a post mortem on lungs and heart, the results go only to the Workmen's Compensation Board;

Be it therefore resolved that the Workmen's Compensation Act of Ontario be amended to make available to deceased claimants' immediate families, executors, or counsel, post mortem findings upon request, and that the provincial government enact the necessary laws or regulations to permit immediate families of deceased claimants or counsel to obtain directly from the hospital, free of charge, a post mortem examination on lungs and heart.

5. Request for Amendments to Procedures Relating to Appeal Tribunals

From the Town of Timmins

Whereas the present procedure of conducting appeal tribunals under the Workmen's Compensation Act is unsatisfactory in that the workman is seldom given the benefit of a reasonable doubt in the findings by said tribunals; and

Whereas as it was stated in the Legislature by the Honourable Minister of Labour, Mr. L. Rowntree, that in effect the appeal tribunals procedure of the Workmen's Compensation Board was loaded against the claimant;

Now therefore be it resolved that the Act be amended so that if any doubt is brought out during the trial before the appeals tribunal, particularly in evidence presented at said tribunal, that the claimant be given full benefit of such doubt;

And be it further resolved that the full file of evidence and not merely a summary thereof be sent the claimant or his counsel in ample time to prepare a suitable defence prior to date of hearing.

6. To Ensure that Payments for Temporary Partial Disability Will Be Equal to Those of the General Welfare Assistance Act

From the Association of Mining Municipalities of Northern Ontario

Whereas, because of the nature of the principal industry of the mining municipalities of Northern Ontario, there is a relatively high incidence of injury which often results in temporary partial disability; and

Whereas the provisions of the Workmen's Compensation Act (Ontario) provide that where temporary partial disability results from an injury, compensation shall be based on the difference between the average weekly earnings of the injured person before the accident and the average amount that he is able to earn in some suitable employment or business after the accident; and

Whereas because of the nature of the principal industry of the mining municipalities, there is seldom suitable employment available to workmen; and

Whereas the amount received pursuant to the provisions of the Workmen's Compensation Act (Ontario) is frequently less than the amount a recipient of unemployment relief assistance would receive under the regulations of the General Welfare Assistance Act (Ontario); and

Whereas when such compensation is less than the amount a workman would be entitled to under The General Welfare Assistance Act (Ontario) the municipalities must provide supplementary assistance to these injured workmen and their families;

Now therefore be it resolved that the Association of Mining Municipalities of Northern Ontario do present to the Minister responsible for the administration of The Workmen's Compensation Act (Ontario) a recommendation requesting that legislative amendment to Section 41 of the Workmen's Compensation Act (Ontario) be made so that the Section will read as follows:

"41. Where temporary partial disability results from the injury, the compensation shall be a weekly payment of 75% of the difference between the average weekly earnings of the workman before the accident and the average amount that he is earning or is able to earn in some suitable employment or business after the accident, provided that such weekly payment together with any other earned income, shall not be less than the workman would receive under the provisions of The General Welfare Assistance Act."

7. Request for Legislation to Permit Workmen's Compensation Board to make Deductions for O.H.S.C. Payments

From the Welfare Officers' Association

Whereas there is no present authority requiring the deduction of Ontario Hospital Services Commission payments from persons receiving Workmen's Compensation; and

Whereas in most branches of employment, persons who become temporarily disabled and are qualified and receive Workmen's Compensation because of such disability, are also released from such employment, thereby becoming non-contributory towards O.H.S.C. payments; and

Whereas such persons entitled to Compensation do receive 66 2/3% or more of their earnings over the last two years employment, immediately preceding the date of such accident; and

Whereas after a three (3) month period such workman becomes indigent as does his family, and because of non-payment of premiums by the Workmen's Compensation Board, who is actually his employer, it thus becomes the responsibility of the municipality to pay the indigent rate in the event of hospitalization;

Therefore be it resolved that this Association does hereby request the government of the Province of Ontario to enact legislation whereby the Workmen's Compensation Board would have the authority to make deductions of O.H.S.C. payments from the compensation payable to workmen whilst in receipt of compensation.

8. Workmen's Compensation Recipients To Be Credited With Unemployment Insurance Contributions

From the Sudbury and District Municipal Association

Resolved that the Unemployment Insurance Commission be petitioned through the Province to have its Act amended to allow men who are in receipt of compensation payments under the Ontario Workmen's Compensation Act to be given towards Unemployment Insurance for the weeks they are on total temporary compensation, by deduction of Unemployment Insurance premium payments from their compensation cheques, so that there is no loss in weeks of contribution while they are absent from their work as compensation claimants.

All of which is respectfully submitted.

Reeve A. M. Campbell
President
The Ontario Municipal Association

September 1, 1966

